

AMENDED IN ASSEMBLY JUNE 29, 2001

AMENDED IN SENATE MAY 2, 2001

**SENATE BILL**

**No. 483**

**Introduced by Senator Sher**

February 22, 2001

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An act to amend Sections ~~2795 and 2796.5~~ of 2796.5 and 6217 of, and to add Section 2797 to, the Public Resources Code, relating to mining.

LEGISLATIVE COUNSEL'S DIGEST

SB 483, as amended, Sher. Surface mining and reclamation.

(1) The existing Surface Mining and Reclamation Act of 1975 establishes a state abandoned minerals and mineral materials mine reclamation program for the purpose of administering funds received by the state under the federal Surface Mining Control and Reclamation Act of 1977, or through amendments to specified federal general mining laws. Existing law authorizes funds appropriated by the Legislature to be used for the state abandoned minerals and mineral materials mine reclamation program. ~~Under existing law, the first \$2,000,000 of federal moneys received by the state pursuant to Section 35 of the Mineral Lands Leasing Act, as amended, is required to be deposited in a specified account for expenditure for purposes of the Surface Mining and Reclamation Act of 1975, except as provided.~~

~~This bill would expressly authorize the use of the funds in this account for remediation and reclamation of abandoned mined lands, as specified.~~

~~(2) Existing law also, until January 1, 2003, authorizes the Director of Conservation to remediate or complete reclamation of abandoned~~

mined lands that meet specified requirements and to make the costs of remediation a lien on the affected property.

This bill would extend the time for the director to remediate or complete reclamation of abandoned mined lands to January 1, 2004 2007.

*Existing law requires the State Lands Commission, with specified exceptions, to deposit in the State Treasury all revenue, money, and remittances received by the commission pursuant to specified laws governing the use of state lands, and requires that those funds be applied to specified obligations in accordance with specified priorities requiring certain payments in specified amounts to, among other funds, the General Fund, the California Housing Trust Fund, and the Resources Trust Fund.*

*This bill would include within those funding priorities a requirement that \$2,000,000 be transferred to the Abandoned Mine Reclamation and Minerals Fund, and would require that the money in the fund be appropriated in the annual Budget Act to the Department of Conservation for remediation and reclamation of abandoned mines, as provided.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1.—Section 2795 of the Public Resources Code is~~  
2     ~~amended to read:~~  
3     ~~2795.—(a) Notwithstanding any other provision of law, the~~  
4     ~~first two million dollars (\$2,000,000) of moneys from mining~~  
5     ~~activities on federal lands disbursed by the United States each~~  
6     ~~fiscal year to this state pursuant to Section 35 of the Mineral Lands~~  
7     ~~Leasing Act, as amended (30 U.S.C. Sec. 191), shall be deposited~~  
8     ~~in the Surface Mining and Reclamation Account in the General~~  
9     ~~Fund, which account is hereby created, and may be expended,~~  
10    ~~upon appropriation by the Legislature, for purposes of this chapter,~~  
11    ~~including remediation and reclamation of abandoned mined lands~~  
12    ~~pursuant to Section 2796.5. However, if in any fiscal year, the~~  
13    ~~amount of money disbursed to the state pursuant to Section 35 of~~  
14    ~~the Mineral Lands Leasing Act is less than twenty million dollars~~  
15    ~~(\$20,000,000), then only the first one million one hundred~~  
16    ~~thousand dollars (\$1,100,000) of that money shall be deposited in~~

~~the Surface Mining and Reclamation Account for the next fiscal year.~~

~~(b) Proposed expenditures from the account shall be included in a separate item in the Budget Bill for each fiscal year for consideration by the Legislature. Each appropriation from the account shall be subject to all of the limitations contained in the Budget Act and to all other fiscal procedures prescribed by law with respect to the expenditure of state funds.~~

~~SEC. 2.~~

*SECTION 1.* Section 2796.5 of the Public Resources Code is amended to read:

2796.5. (a) The director, with the consultation of appropriate state and local agencies, may remediate or complete reclamation of abandoned mined lands that meet all of the following requirements:

(1) No operator having both the responsibility and the financial ability to remediate or reclaim the mined lands can be found within the state.

(2) No reclamation plan is in effect for the mined lands.

(3) No financial assurances exist for the mined lands.

(4) The mined lands are abandoned, as that term is used in paragraph (6) of subdivision (h) of Section 2770.

(b) In deciding whether to act pursuant to subdivision (a), the director shall consider whether the action would accomplish one of the following:

(1) The protection of the public health and safety or the environment from the adverse effects of past surface mining operations.

(2) The protection of property that is in danger as a result of past surface mining operations.

(3) The restoration of land and water resources previously degraded by the adverse effects of surface mining operations.

(c) The director may also consider the potential liability to the state in deciding whether to act under this section. Neither the director, the department, nor the state, or its appointees, employees, or agents, in conducting remediation or reclamation under this section, shall be liable under applicable state law, and it is the intent of the Legislature that those persons and entities not be liable for those actions under federal laws.

1 (d) (1) The remediation or reclamation work performed under  
2 this section includes, but is not limited to, supervision of  
3 remediation or reclamation activities that, in the director's  
4 judgment, is required by the magnitude of the endeavor or the  
5 urgency for prompt action needed to protect the public health and  
6 safety or the environment. The action may be taken in default of,  
7 or in addition to, remedial work by any other person or  
8 governmental agency, and regardless of whether injunctive relief  
9 is being sought.

10 (2) The director may authorize the work to be performed  
11 through department staff, with the cooperation of any other  
12 governmental agency, or through contracts, and may use rented  
13 tools or equipment, either with or without operators furnished.

14 (3) In cases of emergency where quick action is necessary,  
15 notwithstanding any other provision of law, the director may enter  
16 into oral contracts for the work, and the contracts, whether written  
17 or oral, may include provisions for the rental of tools or equipment  
18 and in addition the furnishing of labor and materials necessary to  
19 accomplish the work. These emergency contracts are exempt from  
20 approval by the Department of General Services pursuant to  
21 Section 10295 of the Public Contract Code.

22 (4) The director shall be permitted reasonable access to the  
23 abandoned mined lands as necessary to perform any remediation  
24 or reclamation work. The access shall be obtained with the consent  
25 of the owner or possessor of the property or, if the consent is  
26 withheld or otherwise unobtainable, with a warrant duly issued  
27 pursuant to the procedure described in Title 13 (commencing with  
28 Section 1822.50) of Part 3 of the Code of Civil Procedure.  
29 However, in the event of an emergency affecting the public health  
30 or safety, the director may enter the property without consent or the  
31 issuance of a warrant.

32 (e) For any remediation or reclamation work accomplished, or  
33 other necessary remedial action taken by any governmental  
34 agency, the operator, landowner, and the person or persons who  
35 allowed or caused any pollution or nuisance are liable to that  
36 governmental agency to the extent of the reasonable costs actually  
37 incurred in remediating, reclaiming, or taking other remedial  
38 action. The amount of the costs is recoverable in a civil action by,  
39 and paid to, the governmental agency and the director to the extent

1 of the director's contribution to the costs of the remediation,  
2 reclamation, cleanup, and abatement or other corrective action.

3 (f) (1) The amount of the costs constitutes a lien on the affected  
4 property upon service of a copy of the notice of lien on the owner  
5 and upon the recordation of a notice of lien, which identifies the  
6 property on which the remediation or reclamation was  
7 accomplished, the amount of the lien, and the owner of record of  
8 the property, in the office of the county recorder of the county in  
9 which the property is located. Upon recordation, the lien has the  
10 same force, effect, and priority as a judgment lien, except that it  
11 attaches only to the property posted and described in the lien. The  
12 lien shall continue for 10 years from the time of the recording of  
13 the notice of the lien unless sooner released or otherwise  
14 discharged, and may be renewed.

15 (2) Not later than 45 days after receiving a notice of lien, the  
16 owner may petition the court for an order releasing the property  
17 from the lien or reducing the amount of the lien. In this court  
18 action, the governmental agency that incurred the costs shall  
19 establish that the costs were reasonable and necessary. The lien  
20 may be foreclosed by an action brought by the director, for a  
21 money judgment. Money recovered by a judgment in favor of the  
22 director shall be used for the purposes of this chapter.

23 (g) If the operation has been idle for more than one year without  
24 obtaining an approved interim management plan, an application  
25 for the review of an interim management plan filed for the purpose  
26 of preventing the director from undertaking remediation or  
27 reclamation of abandoned mined lands under this section shall be  
28 voidable by the lead agency or the board upon notice and hearing  
29 by the lead agency or the board. In the event of conflicting  
30 determinations, the decision of the board shall prevail.

31 (h) "Remediate," for the purposes of this section, means to  
32 improve conditions so that threat to or damage to public health and  
33 safety or the environment are lessened or ameliorated, including  
34 the cleanup and abatement of pollution or nuisance or threatened  
35 pollution or nuisance.

36 (i) "Threaten," for the purposes of this section, means a  
37 condition creating a probability of harm, when the probability and  
38 potential extent of harm make it reasonably necessary to take  
39 action to prevent, reduce, or mitigate damages to persons,  
40 property, or the environment.

(j) This section shall apply to abandoned mined lands on which the mining operations were conducted after January 1, 1976.

(k) The director may act under this section only upon the appropriation of funds by the Legislature for the purposes of carrying out this section.

(l) Nothing in this section limits the authority of any state agency under any other law or regulation to enforce or administer any cleanup or abatement activity.

(m) This section shall remain in effect only until January 1, ~~2004~~ 2007, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, ~~2004~~ 2007, deletes or extends that date.

SEC. 2. *Section 2797 is added to the Public Resources Code, to read:*

2797. (a) *Not later than January 1 of each year, the director shall report to the Legislature on any abandoned mine remediation projects that are proposed for the following fiscal year.*

(b) *The report required to be prepared pursuant to subdivision (a) shall include information on all of the following:*

(1) *The scope of work to be performed.*

(2) *Any other governmental agencies having jurisdiction over any proposed project, if any, and the role of any of those affected governmental agencies with respect to the proposed project.*

(3) *Any impacts on the local community or any other stakeholders that may result from the proposed project.*

(4) *Any potential legal consequences that may result from the commencement of remediation work.*

(c) *The report required to be prepared pursuant to this section shall be made available on the department's Internet website.*

SEC. 3. *Section 6217 of the Public Resources Code, as amended by Section 18 of Chapter 876 of the Statutes of 1998, is amended to read:*

6217. (a) With the exception of revenue derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and Sections 8551 to 8558, inclusive, and Section 6404 (insofar as the proceeds are from property that has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit all revenue, money, and remittances received by the commission under this division, and under Chapter 138 of the

1 Statutes of 1964, First Extraordinary Session, in the General Fund.  
2 Out of those funds deposited in the General Fund, sufficient  
3 moneys shall be made available each fiscal year for the following  
4 purposes:

5 (1) Payment of refunds, authorized by the commission, out of  
6 appropriations made for that purpose.

7 (2) Payment of expenditures of the commission as provided in  
8 the annual Budget Act.

9 (3) Payments to cities and counties of the amounts specified in  
10 Section 6817 for the purposes specified in that section, out of  
11 appropriations made for that purpose.

12 (4) Payments to cities and counties of the amounts agreed to  
13 pursuant to Section 6875, out of appropriations made for that  
14 purpose.

15 (b) This section shall become operative on July 1, ~~2003~~ 2006.

16 *SEC. 4. Section 6217 of the Public Resources Code, as*  
17 *amended by Section 3 of Chapter 326 of the Statutes of 1998, is*  
18 *amended to read:*

19 6217. With the exception of revenue derived from state school  
20 lands and from sources described in Sections 6217.6, 6301.5,  
21 6301.6, 6855, and Sections 8551 to 8558, inclusive, and Section  
22 6406 (insofar as the proceeds are from property that has been  
23 distributed or escheated to the state in connection with unclaimed  
24 estates of deceased persons), the commission shall deposit in the  
25 State Treasury all revenue, money, and remittances received by the  
26 commission under this division, and under Chapter 138 of the  
27 Statutes of 1964, First Extraordinary Session, and those funds  
28 shall be applied to the following obligations in the following order  
29 of priority:

30 (a) To the General Fund, the revenue necessary to provide in  
31 any fiscal year for the following:

32 (1) Payment of refunds, authorized by the commission, out of  
33 appropriations made for that purpose by the Legislature.

34 (2) Payment of expenditures of the commission as provided in  
35 the annual Budget Act enacted by the Legislature.

36 (3) Payments to cities and counties of the amounts specified in  
37 Section 6817 for the purposes specified in that section, and the  
38 revenues so deposited are appropriated for that purpose.

39 (4) Payments to cities and counties of the amounts agreed to  
40 pursuant to Section 6875.



1 (b) To the California Housing Trust Fund, each fiscal year, the  
2 amount of two million dollars (\$2,000,000).

3 (c) After meeting the obligations in subdivisions (a) and (b),  
4 the Controller shall transfer the balance of all such revenue,  
5 money, and remittances received by the commission pursuant to  
6 this section in each fiscal year to the Resources Trust Fund.

7 The money in the Resources Trust Fund shall be collected for  
8 the purposes of, and held in trust for, preserving and protecting the  
9 natural and recreational resources of the state and, for this purpose,  
10 the Controller shall annually transfer the following sums from the  
11 Resources Trust Fund to the following accounts and funds in the  
12 following order of priority:

13 (1) Eight million dollars (\$8,000,000) to the Salmon and  
14 Steelhead Trout Restoration Account in the Resources Trust Fund.  
15 The money in the account shall be appropriated in the annual  
16 Budget Act to the Department of Fish and Game for expenditure  
17 for the recovery of coho salmon, other species of salmon, and  
18 anadromous trout pursuant to Section 6217.1 of this code and  
19 Chapter 8 (commencing with Section 2760) of Division 3 of the  
20 Fish and Game Code.

21 (2) Two million two hundred thousand dollars (\$2,200,000) to  
22 the Marine Life and Marine Reserve Management Account, which  
23 is hereby created in the Resources Trust Fund. The money in the  
24 account shall be appropriated in the annual Budget Act to the  
25 Department of Fish and Game for expenditure for marine life  
26 management pursuant to Section 6217.2.

27 (3) Ten million dollars (\$10,000,000) to the State Parks System  
28 Deferred Maintenance Account, which is hereby created in the  
29 Resources Trust Fund. The money in the account shall be  
30 appropriated in the annual Budget Act to the Department of Parks  
31 and Recreation for deferred maintenance expenses.

32 (4) *Two million dollars (\$2,000,000) to the Abandoned Mine*  
33 *Reclamation and Minerals Fund. The money in the fund shall be*  
34 *appropriated in the annual Budget Act to the Department of*  
35 *Conservation for remediation and reclamation of abandoned*  
36 *mined lands pursuant to Section 2796.5.*

37 (5) The remainder to the Natural Resources Infrastructure  
38 Fund which is an account in the Resources Trust Fund. The money  
39 in the Natural Resources Infrastructure Fund shall be available for  
40 expenditure, upon appropriation by the Legislature, for the



1 purposes of preserving and protecting the natural and recreational  
2 resources of the state. Priority for the use of the money in the  
3 Natural Resources Infrastructure Fund shall be given to the  
4 following:

5 (A) For expenditure by the Department of Fish and Game,  
6 upon appropriation by the Legislature, for environmental review  
7 and monitoring, consultation with lead agencies, recommending  
8 mitigation measures, and enforcement related activities pursuant  
9 to Division 13 (commencing with Section 21000).

10 (B) For expenditure, upon appropriation by the Legislature, for  
11 the purposes of land acquisition in Orange County and San Diego  
12 County pursuant to Chapter 10 (commencing with Section 2800)  
13 of Division 3 of the Fish and Game Code.

14 (C) For expenditure to meet the requirements of Section 2796  
15 of the Fish and Game Code that are not met pursuant to Section  
16 2795 of the Fish and Game Code, upon appropriation by the  
17 Legislature.

18 (D) For expenditure for nonpoint source pollution control  
19 programs of the State Water Resources Control Board and the  
20 California Coastal Commission, upon appropriation by the  
21 Legislature.

22 The Controller shall transfer any unencumbered balances  
23 remaining in the Salmon and Steelhead Trout Restoration  
24 Account, the Marine Life and Marine Reserve Management  
25 Account, the State Parks Deferred Maintenance Account, and the  
26 Natural Resources Infrastructure Fund on June 30 of each year to  
27 the General Fund.

28 This section shall become inoperative on July 1, 2006, and, as  
29 of January 1, 2007, is repealed, unless a later enacted statute,  
30 which becomes effective on or before January 1, 2007, deletes or  
31 extends the dates on which it becomes inoperative and is repealed.

